

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6294 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

GHCL MAJADOOR SANGH

Versus

GUJARAT HEAVY CHEMICALS LTD. EMPLOYEES' UNION

Appearance:

MR DH WAGHELA for Petitioner
MR.DS VASAVADA for Respondent No.1.
MR KAMAL TRIVEDI FOR M/S TRIVEDI & GUPTA
for Respondent No. 2
MR KN SHASTRI FOR MR DA BAMBHANIA
for Respondents No. 3 and 4.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 10/09/97

ORAL JUDGEMENT

Mr.Kamal Trivedi has produced a xerox copy of the letter dated 13.7.1997 addressed to the Deputy Labour Commissioner by the General Secretary of the petitioner union. The contents of this letter show that the petitioner union itself wanted to avoid election as

scheduled. This petition had been filed by the petitioner union for setting aside the order dated 11.8.1997 passed by the Deputy Labour Commissioner on the ground that while election had been fixed to be held on 14.8.1997, the Deputy Labour Commissioner had passed the aforesaid order on 11.8.1997 giving recognition to respondent No.1 Union as a majority union whereas according to the petitioner, petitioner's union was a majority union.

The contents of this letter dated 13.7.1997 make it very clear that it was a very vital document which was suppressed and withheld from the Court and the order of Rule nisi alongwith ad-interim order was obtained from this Court by giving an impression that the Deputy Labour Commissioner himself having fixed the date of election did not hold the election and by impugned order gave recognition as the majority union of respondent no.2. Moved with such a contention rule was issued and ad-interim order was passed on 1.9.1997. Now the document dated 13.7.1997 produced by Mr.Kamal Trivedi leaves no room for doubt that very vital document had been suppressed and the petitioner has not been fair to the Court in equitable jurisdiction under Article 226 of the Constitution. No one who comes to seek equity should be allowed to touch pure fountation of justice with soiled and tainted hands and therefore, strictly speaking the petitioner has no right of audience. This Special Civil Application by itself deserves to be dismissed on this ground alone and the order by which rule was issued and the ad-interim direction was passed on 1.9.1997 strictly speaking deserves to be recalled on this ground alone on suppression and concealment of vital information and document from this Court.

However, I find that all the parties present before the Court and as represented through their respective Counsel are agreeable to go ahead with the election and therefore the election may be held any time on or before 14.10.1997. The exact date in close vicinity of 14.10.1997, shall be fixed by the Deputy Labour Commissioner and the notification in this regard initiating process of election shall be issued by the concerned Deputy Labour Commissioner at the earliest possible opportunity and within three days from the receipt of the certified copy of this order. It will be the duty of Mr.Kamal Trivedi, the learned Counsel for respondent No.2 to produce the certified copy of this order before the concerned Deputy Labour Commissioner immediately. Ad-interim order dated 1.9.1997 is hereby vacated and till such time the elections are held or

14.10.1997 whichever is earlier, the respondent no.2 shall continue to hold the position as it was conferred upon it vide order dated 11.8.1997 passed by the Deputy Labour Commissioner.

This Special Civil Application is disposed of accordingly. Rule is hereby discharged. No order as to costs.

m.m.bhatt